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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,864

07/28/2003

Michael Nally

57471/03-454

3817

22206

7590

05/04/2005

FELLERS SNIDER BLANKENSHIP

BAILEY & TIPPENS

THE KENNEDY BUILDING

321 SOUTH BOSTON SUITE 800

TULSA, OK 74103-3318

EXAMINER

TON, ANABEL

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,864

Applicant(s)

NALLY ET AL.

Examiner

Anabel M. Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments with respect to claims 1-6,9-12 have been considered but are moot in view of the new ground(s) of rejection.

DETAILED ACTION

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6,9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Chien (5,871,271).
4. Chien discloses a protective shell defining an inside surface and an outside surface and outer shell in communication with the outside surface and protective shell a plurality of lamps adapted to emit through the outer shell, a power supply in electrical communication with the plurality of lamps to provide power to the plurality of lamps and a motion detecting switch (41) in communication with the lamps such that upon movement of the motion detecting switch electrical power is supplied to at least one lamp of the plurality of lamps for a predetermined period of time (abstract, figs 1-3,8,9, col. 7 lines 23-26);
 - A flasher module which receives power from said power supply and selectively provides power to individual lamps of said plurality of lamps, said flasher module having a plurality of programs for flashing said plurality of lamps, wherein said

predetermined period of time is the length of time of a particular program (col. 7 lines 28-43);

- Said power supply comprises a battery.
- Each lamp of said plurality of lamps is a light emitting diode.
- A first program of said plurality of programs turns on all of the lamps of said plurality of lamps for said predetermined period of time. (Col. 7 lines 23-43);
- Said predetermined period of a time is a first predetermined period of time and a second program of said plurality of programs flashes individual lamps of said plurality of lamps in a random manner for a second predetermined period of time.
- Each of the plurality of lamps are beneath an outside surface of the protective shell;
- The outer shell is provided with a plurality of translucent windows through which the lamps emit light;
- The translucent windows comprise protrusions;
- The protrusions are elliptical having a longitudinal axis aligned with a front to back axis of the protective shell.

Allowable Subject Matter

5. Claims 7 and 8 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited does not teach the mechanism for closing the motion detecting switch as recited in the abovementioned claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton
Examiner
Art Unit 2875

AMT



THOMAS M. SEMBER
PRIMARY EXAMINER